

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

RICHARD J. DIETZ,	)	CASE NO. 1: 11 CV 1541
	)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
	)	
v.	)	<u>ORDER ADOPTING</u>
	)	<u>MAGISTRATE’S REPORT AND</u>
	)	<u>RECOMMENDATION</u>
COMMISSIONER OF SOCIAL	)	
SECURITY,	)	
	)	
Defendant.	)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Kathleen B. Burke. The Report and Recommendation (ECF # 12), issued on August 1, 2012, is hereby ADOPTED by this Court. Plaintiff sought review of the Commissioner’s decision denying his application for Disability Insurance Benefits and Supplemental Security Income under 42 U.S.C. § 416(i) and 42 U.S.C. § 1381, *et seq.*, respectively. The Magistrate found that the ALJ’s determination was based on the correct legal standards and that the findings were supported by substantial evidence in the record. Further, the Magistrate correctly determined that it was not appropriate to consider the new evidence submitted by Mr. Dietz under the circumstances of this case. The Sixth Circuit has clearly determined that where, as here, the Appeals Council denies review and the ALJ’s decision becomes the Commissioner’s decision, the court’s review on appeal

is limited to the evidence that was presented to the ALJ. See, e.g., *Jones v. Commissioner*, 336 F.3d 469, 478 (6<sup>th</sup> Cir. 2003).

The Plaintiff sought and received an extension of time in which to file objections to the Report and Recommendation. (ECF #13, 15). The Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objection has been made. See FED. R. CIV. P. 72(b). The Court finds Magistrate Judge Burke's Report and Recommendation to be thorough, well-written, well-supported, and correct. The Court finds that Plaintiff's objections raise no arguments (factual or legal) that have not been fully addressed by the Magistrate's Report and Recommendation.

The Magistrate's Report and Recommendation fully and correctly addresses all of the Petitioner's claims and the Petitioner's objections are unwarranted. This Court, therefore, adopts the Magistrate's Report in its entirety. The Commissioner's decision denying Plaintiff's applications for benefits is adopted. The case is dismissed with prejudice. IT IS SO ORDERED.

/s/ Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: August 31, 2012